

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7240

BILL NUMBER: HB 1584

DATE PREPARED: Feb 23, 1999

BILL AMENDED: Feb 22, 1999

SUBJECT: Bail and controlled substance offenses.

FISCAL ANALYST: Susan Preble

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FUNDS AFFECTED: **GENERAL
DEDICATED
FEDERAL**

IMPACT: Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (1) That if a defendant has been charged with a controlled substance offense classified as a Class A felony or Class B felony, the court must impose at least one of certain described conditions as a condition of bail;
- (2) Requires a court that is setting the amount of bail for a defendant who has been charged with a controlled substance offense classified as a Class A felony or Class B felony to take into account the amount of the controlled substance involved in the offense;
- (3) Requires a court to carefully consider the necessity of setting a substantial amount of bail to assure a defendant's appearance in court or to assure the physical safety of another person or the community if the defendant has been charged with a controlled substance offense that is classified as a Class A felony or Class B felony.

Effective Date: July 1, 1999.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) The Department of Correction reports that in the first nine months of FY 1998, 105 felons were incarcerated with controlled substance offenses classified as Class A felonies, and 720 felons were incarcerated with controlled substance offenses classified as Class B felonies. These figures include juveniles who were adjudicated as adults.

Explanation of Local Revenues: When a criminal defendant executes bail with a bail bondsman and fails to appear in court, a Late Surrender Fee based on a percent of the value of the bond is assessed against the bondsman. Half of the revenue from the Late Surrender Fee is deposited in the Police Pension Trust Fund while the other half is deposited in a County Extradition Fund.

Passage of this bill potentially increases revenue from the Late Surrender Fee if a proportionately greater percentage of criminal defendants use a bail bondsman. In addition, if the bondsman does not return the criminal defendant within 210 days of the mailing notice, the court declares 30% of the face value of the bond to be forfeited. The forfeited amount is deposited into the Common School Fund. Local governments reported \$804,525 in CY 1997 from the Late Surrender Fee. A separate amount was not available on the amount of forfeitures that were deposited into the Common School Fund.

When a criminal defendant executes bail through a 10% cash deposit with the Clerk of the Circuit Court, the clerk has the option to collect a Bond Administration Fee of 10% of the bail bond or \$50, whichever is less. Local governments reported collecting \$819,207 in bond administration fees in CY 1997. In addition, if the criminal defendant has used public defender services, the court must order the clerk to remit the difference, if any, and retain the rest between the bond deposit and the cost of pauper defense. The retained amount is deposited in the Supplemental Public Defender Services Fund. During CY 1997, \$946,839 was collected in Supplemental Public Defender Fees.

State Agencies Affected:

Local Agencies Affected: Trial courts; circuit court clerks; local law enforcement agencies; jails.

Information Sources: 1997 Indiana Judicial Report, Vol. I ; IC 27-10-2-12; IC 35-48-4; Department of Correction.